

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
ZIONESS MOVEMENT, INC.,

Plaintiff,

-against-

THE LAWFARE PROJECT, INC.,

Defendant/ Third-Party Plaintiff

-against-

ZIONESS MOVEMENT, INC. and AMANDA
BERMAN,

Third-Party Defendant
----- X

**ORDER GRANTING AND
DENYING PLAINTIFF'S
MOTIONS FOR SANCTIONS**

21 Civ. 7429 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

I heard, and ruled upon, the following motions for discovery sanctions on August 2, 2023. My rulings, with pro and con arguments, can be found in the transcript of arguments.

Plaintiff's motion for sanctions pursuant to Rule 37, Fed. R. Civ. P., regarding Defendant and Third-Party Plaintiff The Lawfare Project's ("LPI") failure to respond to Plaintiff Zioness Movement, Inc.'s ("ZMI") interrogatories is granted.

Plaintiff's motion for sanctions regarding LPI's failure to produce a competent witness under Fed. R. Civ. P. 30(b)(6) is granted. ZMI is entitled to the inferences that LPI and ZMI were independent entities, and that Third-Party Defendant Berman had the right to start ZMI as a separate entity and to use and promote the Zioness trademark.

Plaintiff's motion for sanctions for LPI's repeated delays in producing, fully and responsively, the physical and electronic documents demanded by Plaintiff, and for separating email communications from their attached documents so that their connections cannot readily be ascertained, is granted. However, since ZMI normally would have incurred a substantial portion

of such expenses to conduct discovery, ZMI shall recover one-half of its expenses incurred in the period of LPI's discovery delays. The proceedings to determine the amount due will be regulated upon the termination of the case.

Plaintiff's motion for sanctions for LPI's failure to supplement Fed. R. Civ. P. 26 disclosures is denied.


LPI shall produce in full all documents that it has redacted by August 7, 2023, except for privileged documents claimed as such with descriptive details satisfying Local Rule 26.2 and produced by the same day.

Plaintiff's motion for sanctions under Rule 11, Fed. R. Civ. P, is denied.

In all other respects, Plaintiff's motions are granted and denied, as indicated in the record of the hearing held August 2, 2023. The Clerk shall terminate ECF number 105. The parties shall appear for a status conference on August 10, 2022, at 10am in Courtroom 14D to regulate further proceedings.

SO ORDERED.

Dated: August 3, 2023
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge